THE ST. LOUIS REPUBLIC

HERS: GEORGE KNAPP & CO. W. Knapp, President and G. George L. Allen, Vice President W. B. Carr, Secretary. (REPUBLIC BUILDING.)

DAILY AND SUNDAY-SEVEN ISSUES WEEK.

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pications cannot be returne eted communications cannot be returned y circumstances. In the Post Office in St. Louis, Mo., as TIC POSTAGE

TELEPHONE NUMBERS.

FRIDAY, JUNE 21, 1901.

MAY CIRCULATION.

W. B. Carr, Business Manager of The St Louis Republic, being duly sworn, says that the actual number of full and complete copies of the daily and Sunday Republic printed during the month of May, 2501.

Data Copies	I Date.	Contex
174,390	17	.72,900
273,730		
373,660		
476,210	20	.73,290
5 Sunday 101,665	21	. 73,130
6 74,510	22	72,920
7 73,400	23	73,070
873,480	24	.72,780
9 73,010	25	75,120
1072,970	26 Sunday	98,450
1175,060	27	.72,470
1: Sunday . 100,325	28	74,560
13 74,060	29	.72,240
14 73,290	30	.72,020
15 73,090	31	.72,370
16 72,110	- 1	
Total for the mon	th 2,	387,175

ing, left over or filed ... Net number distributed 2,325,421 Average daily distribution 75,013 And said W. B. Carr further mays that he number of copies returned or reported model during the month of May was

Less all copies spoiled in print-

W. B. CARR. Sworn to and subscribed before me this thirty-first day of May, 1901. J. F. FARISH, Notary Public, City of St. Louis, Mo. My term expires April 25, 1505.

NOVEL SYSTEM.

One of the Globe-Democrat's hottes arguments is that because Mayor Wells alleges Republican election frauds he ught to resign.

The more you look at this unique

ought the more you see—of the Globe emocrat's "Busy Minnie" intellect.

Resign because the Parker gangsters unmitted frauds? The Globe-Democrat has fixed up a political contrivance that operates as a certainty. Wells ought to resign if there were Democratic frauds and if there were Republican frauds he really must resign.

We used to imagine that Uncle Henry was the limit as a political thinker. But the Globe passes beyond Ziegenhein's

ite frauds leads to a new puzzle. If Wells resigned and Parker went in, rould Parker be required to resign be cause he has charged Democratic frauds? Would Wells go in again or that ground? This new game is dazzling. Where does it come out?

POOR, TIRED THINGS.

Republican managers are wonderfully eptible to fatigue. They do not dash ahead the more vigorously after the de-cision in the Funkhouser case, as men would do who had a good cause and trong evidence. They just lie down on the grass and won't play.

The Supreme Court has held that ethods of destroying all secrecy of the ballot cannot be permitted.

Perhaps it is more important that bal-lots and poll books be subject to com-parison for the purpose of inquiring inalleged fraud than that the secrecy of the ballot be preserved. But that is other story and should be argued out before the people.

Nor does the Supreme Court decision

lose the door to investigatin, as the Parker managers weakly assert. They are at liberty to prove any violations of which they have knowledge. They can investigate any suspected frauds, ex-cept, possibly, the substitution or altera-tion of ballots by judges of election.

If they have any direct evidence of substitution or alteration, there is no barrier to establishing the fact in court. This quick lassitude exhibits their lack

of confidence in the evidence. They are only too anxious to quit. Any excuse is

TOOLEY STREET ORGAN. Early in the progress of the game it is plain that the St. Louis Globe-Democrat be the organ of the Third Party now being organized by a disgruntled lot of disappointed officeseekers who constitute the only genuine, simon-pure, blown-in-the-bottle bolters from the Democratic party as organized in this

The Globe-Democrat is also the organ of Missouri Republicanism. Its one dominating ambition is to "toll up" the gry Republican outfit to a big feed at out this fact does not conflict with its accepted mission as the organ of the Meriwother bolters. In fact, it is bee the Globe-Democrat is the Re-ican organ in Missouri that it now es and encourages the Third Party

tics in working the little handful iwether calamity-howiers as a It forgets that a United Hed Republicans and Meriwer last April. It blinds itself to t truth that the Democratic party souri is solidly united, healthy and

rash. It evidently does not realize that a seat in the Senate should be possible. the turned-down group of would-be of- The only legitimate course open to a aceholders who have just organized the Senator is to so ably serve his country Meriwether Third Party in Missouri that at the expiration of this Senate have no material following but their term he may deserve the one greater

own shirt-tails The Globe-Democrat has signaled to Beyond this he may not decently go. Meriwether and his Third Party for a of Tooley Street. The demagogic slogan of this absurd alliance will be, "We, the People." And a remarkable people, too for Republican success, Meriwether working for Meriwether, and the Third Party for anything which its half-dozen nembers can manage to pick up along the way.

ALL FOR THE TRUSTS. It must be acknowledged that the trade hostility against the United States aroused in the Russian mind by the imposition of a countervailing duty on Russian sugars for the sole and exclu-

sive benefit of the American Sugar Trust now more than ever threatens to cost American exporters a loss of trade with Russia running far into the mil-

With the present danger of an abrogation of the trade agreements between the two nations the situation becomes serious. It means an unsettled condition of commercial relations which will be in the nature of a calamity to American trade. Exports from this country to Russia amount to more than \$11,000,000 annually. Russian imports into this country are inconsiderable in comparison-even of Russian sugar, against which a trust administration "protected" the Sugar Trust by imposing the duty which has caused all this present trouble, there is a total of but \$340,000.

The truth must surely impress itself upon the minds of the American people that Mr. McKinley and his advisers stand ready to go to any lengths in their servility to the will of the trusts. There was absolutely no reason for the countervailing duty on Russian sugars, except that its imposition would help to pay the Republican obligation for the of July. large contributions made by the Sugar Trust to Mr. McKinley's campaign fund. If a general trade war shall now be declared by Russia, a war in which we stand to lose a hundredfold more than is possible to Russia, the loss must be charged up to the Republican administration acting under the orders of the Sugar Trust.

The Republican method of paying its campaign debts may be a good thing for the Republican party and its creditors, the trusts, but it is a bad thing for the American people. The trouble is that the debts are paid by taking the money out of the people's pockets. And this gets tiresome after a time. The time of its tiresomeness is now being

A NEW ST. LOUIS. Former Governor Francis has brought back encouraging impressions from his recent Eastern trip that should fill every friend of St. Louis with even greater pride in the World's Fair and the associated movements. A higher appreciation of the spirit that now animates St. Louis is apparent in all the large

business centers. "I was told by one of two busines men," said Governor Francis, "that a different feeling existed toward St. Louis from what prevailed some time ago. People are concluding that a community which has the enterprise to undertake a work of this magnitude must be wide-awake and public-spirited. We were never put upon trial before the world as we are to-day, and every citi-

situation." Promoters of the Louisiana Purchas celebration have been hopeful that the result mentioned by Governor Francis would come about through the developnent of the Fair. Every city that has undertaken an exposition of magnitude

has increased many times its prestige. . In the train of every exposition of the proper sort follow benefits that cannot be measured by dollars and cents. St. Louis has had examples of this fact presented many times during the past wo years. The best citizens were never is united as at the present. Public improvement has received an unparalleled impetus. Civic vigilance has become the

rule instead of the exception. These effects-internal, they may be called-naturally bring forth the admiration of those on the outside. Business plays no favorites, and when business men comprehend the true uplift that St. Louis has received as a result of the World's Fair, better feeling is sure to abound. That old saying about the Lord helping him who helps himself is true. Commercial interest has been aroused in St. Louis as the result of the

efforts made to improve the city. Governor Francis has brought welcome news. The admiration from broad is an encouragement to do even better things in the future. As he says, St. Louis was never on trial as it is today. That there is a deep realization of this fact by every citizen of St. Louis there is no doubt. St. Louis will do its duty. The habit has been formed.

AMERICAN SENATORS

While there is something discouraging to the ambitions of certain Americans in public life just now in the historical fact that no American President has ever been elected to that high office while serving in the United States Senate it may not truthfully be said that any Senator has a just cause of complaint owing to such a circumstance.

The American citizen who is honored by election to the United States Senate ild be more than content with his political good fortune. The body of national legislators into whose company he is thereby placed deservedly stands as the most distinguished of American bodies. Its membership represents the best there is in the public life of the namerely the exceptions that prove the rule. No country has greater cause for pride in the history of its highest legislative body than have the United States. So high, indeed, is the honor of a seat in the United States Senate that no occurrence of seat the state of the states of th weapon against Missouri cupant of such a seat should be an aspirant for any other political honor dur-ing his term of Senate membership. If, the people should demand a Senator's nomination to the presidency, well and good. Their voice is supreme, and it is

honor-that of election to the presidency.

An American Senator actively schemtriple-handed game of the Three Tailors ing for a presidential nomination is unworthy to be a Senator. His one supreme duty is that of fulfilling the trust which has been placed upon him, of -the Globe-Democrat craftily striving faithfully serving out his term in the Senate. His further personal ambition must wait. It will be a wise thing for the American people to insist upon this point. Log-rolling Senators are not pleasant figures to contemplate.

MISSOURI DAY AT BUFFALO. Missouri Day at the Pan-American Exposition now in progress at Buffalo is set for July 2, one week from next Tuesday, and its celebration should be of a nature in keeping with the dignity and importance of this State and especially in harmony with the World's Fair spirit which will dominate the occasion.

The Governor of Missouri and a distinguished delegation of Missourians in public life will be in suffalo on that date. They will participate in the State ceremonies proper to the day named in Missouri's honor. In addition to these ceremonies combining with them indeed-will be the further ceremony of the formal opening of the Louisiana Purchase Exposition building on the Pan-American Exposition grounds. This will bear directly on the World's Fair to be held in St. Louis in 1903.

Every Missourian who intends visiting the Buffalo Exposition should make an effort to so time his visit that he will be present on Missouri Day. It should be a matter of State pride to do this. It should also be taken as an exceptional opportunity for displaying interest in our own World's Fair. Missouri Day at the Pan-American Exposition should develop into a record-breaker. It should be second in enthusiasm only to that day so closely following it, the Fourth

A MATTER OF HEALTH. Health Commissioner Starkloff has raised an important issue in his recomnendation to the Ways and Means Committees of the Municipal Assembly that no appropriation be made for the office of Milk Inspector.

According to his view of the case, the office is a practical failure. He claims that convictions have been rare. The Milk Inspector is not under the control of the Health Commissioner's Department, but is practically an independent department, accountable only to the

Aside from the legal questions in volved in the failure to pay an officer whose commission continu years, the matter is of vital importance to the people. The health of the community is concerned in the efforts to secure pure milk, being dependent in a very large measure upon the quality of the milk furnished both to the children and older persons.

In a large city the temptation to careless and dishonest dairymen to furnish diluted and germ-infected milk is great. Especially in the poorer districts, neither the wholesaler nor the retailer is likely to be scrupulous unless held strictly to the law.

If there are defects in the present ordinances governing the Milk Inspector's office, let them be remedied as speedily as possible. If the Health Com-missioner knows the defects, it is his duty to have them remedled.

St. Louis lovers of good g

nissioner Hawes and Colonel Jack

Millionaire Stratton probably was not member of the union when he found his gold mine, for it is dollars to doughnuts that he worked more than eight

A mass meeting of Englishmen in Lor don earnestly demanded the independ-ence of the Boers. This is a good sign that England's boasted love of fair play is not wholly dead.

What is the matter with the Globe Democrat? Two Republican weeklies have been "called" into existence this spring to furnish party news for Missouri Republicans.

From the frequency with which St. Louisans are being elected to office at the various conventions the hope that we are appreciated abroad becomes a

Secretary Stevens says that he found the people in the East eager for World's Fair information, Two years hence they will be eager to visit St. Louis.

Kaiser William urges Germans to hang their armor in new places. He doubtless has his eye on one or two likely pegs in this half of the world.

Happily, Chief Kiely cannot make the St. Louis Police Department too good. Efforts to make it the best in the country will do for the present. In considering the imperialism issue

lon't waste time worrying about the Filipino people. The American people are in the greatest danger. Governor Francis has returned from the East and reported that "A great deal

is expected of us." St. Louis also ex-

pects to do a great deal. If the American people approve the Federal Supreme Court's insular decision it stands as good law. If they don't, a better law will stand.

Chicago, with 6,000 bankrupts, naturally can boast of standing first on the bankrupt list. St. Louis is willing to

has been a snowfall in Bavaria. Then there is a cool spot on earth.

Kennedy, Molineux and Barker furnish a poor reflection on the civilization of



MISS NATALIE SCOTT NORTHROP. Of No. 3711 Olive street, who was graduated from the Loretto Academy, at Florissant, Mo., on Tuesday, and who received the gold medal

OPINION OF JUDGE VALLIANT ON MORTGAGE AMENDMENT

Publication of Election Notice Was Legal and the Form of Ballot Was Sufficient, but the Amendment Is in Conflict With the Federal Constitution.

St. Louis lovers of good government will take one long and deep laugh at the pretensions of the new third party. Lee Meriwether was a candidate last spring and one other spring. Lucklly, he will never get past that stage.

That St. Louis girl who offers to pay \$25 to the newspaper that secures her a Kentucky husband has evidently seen pulchritudinous samples like Police Computer of the property.

"Under our system, as existing before the adoption of this amendment, mortgages on real estate are taxed as personal property and the mortgage is required to give them in for taxation, while the land is also taxed on its assessed value without deducting the value of the mortgage. Thus there is, in theory at least, a double taxation on the value of the property.

"By this amendment—that is, that it is in violation of the Fourteenth Amendment of the Constitution of the United States.

"Under our system, as existing before the adoption of this amendment, mortgages on real estate are taxed as personal property and the mortgage is required to give them in for taxation, while the land is also taxed of the mortgage is required to give them in for taxation, while the land is also taxed of the mortgage is required to give them in for taxation, while the land is also taxed of the mortgage is required to give them in for taxation, while the land is also taxed on its assessed value without deducting the value of the mortgage is required to give them in for taxation, while the land is also taxed on its assessed value without deducting the value of the mortgage is required to give them in for taxation, while the land is also taxed on its assessed value without deducting the value of the mortgage is required to give them in for taxation, while the land is also taxed on its assessed value without deducting the value of the mortgage is required to give them in for taxation, while the land is also taxed on its assessed value without deducting the value of the mortgage is required to give them in for taxation, while the land is also taxe

of the property.

"By this amendment the mortgagee is to be deemed to have taxable interest in the property, and the value of that interest is to be deducted from the total assessed value of the property, leaving the mortgager to pay taxes on the assessed value of the equity of redemption. It was supposed that in this way mortgage securities could be more effectively reached for taxation than experience shows they have heretofore been. (Judson on Taxation, 282) The language of the amendment is: 'A mortgage, deed of trust, contract or other obligation by which a debt is secured, shall for the purpose of assessment and taxation be deemed and treated as an interest in the property affected thereby, except as to railroad and other quasi public corporations, for which provision has already been made by law; in case of debts so secured the value of the property affected by such mortgage, deed of trust, contract or obligation, less the value of such security, shall be assessed and taxed to the owner of the property, in the manner hereinafter to be provided by law, and the value of gation. less the value of such security, shall be assessed and taxed to the owner of the property, in the manner hereinafter to be provided by law, and the value of such security shall be assessed and taxed to the owner thereof in the county, city, or other local subdivision in which the property affected thereby is situated. The taxes so levied shall be a lien upon the property and security, etc. The point made by the appellants is that whilst this amendment seeks to impose the burden therein specified upon them, as holders of mortgages executed by individuals, it expressly exempts from such burden those who hold mortgages executed by railroad and other quasi public corporations. They say that under the terms of this law a man holding bonds issued by a railroad or other quasi public corporation, secured by a mortgage of lands of the same kind, in use for a like purpose and lying by the side of the lands covered by the mortgages they hold, is expressly free from the burden that is thereby laid upon them, and, therefore they are not afforded 'equal protection of the law.'

"This amendment is copied, with a slight addition, from the Constitution of California, where it was adopted in 1879, and where it is still the law. We therefore naturally look to that State for decisions construing it. In C. P. R. R. Co. vs. Board of Equalization, 60 California 25, the plaintiff, the railroad company, challenged the validity of that clause of the Constitution as being in violation of the Fourteen Amendment of the United States Constitution in that it de-

railroad company, challenged the validity of that clause of the Constitution as being in violation of the Fourteen Amendment of the United States Constitution in that it denied it the 'equal protection of the laws,' by requiring it to pay taxes on the value of its mortgaged property, without deducting the value of the mortgage, while it made a different rule for an individual mortgagor. The Court, conceding the inequality complained of, held nevertheless, that in the matter of taxation the State was supreme, and that the law was not in violation of the Fourteenth Amendment, because the provisions of that amendment embraced only natural persons, and did not include gailroad corporations. Afterwards in a group of cases the question came before the United States Circuit Court for that district; the Court was aided by an array of able counsel on both sides, and the subject was considered by the Court with the care that its great importance and the large interests involved demanded. Mr. Justice Field delivered the opinion, holding the

REFUBLIC SPECIAL.

Jefferson City, June 19.—The decision of Judge Valliant in the Third Ameriment or mortgage taxation case is regarded as the most important of recent decisions in the Supreme Court, at least in its bearing upon the course of both public taxation and private investment.

On the first two points made in the case, the validity of publication of notice last fall, and the sufficiency of the form of hallot, the Court upheld the amendment. As the objections on these points applied to all the amendments adopted last fall, it may now be assumed that amendment to which no other objection is urged will stand.

On the third point, the validity of the mortgage taxation amendment as against the Fourteenth Amendment to the Federal Constitution, Judge Valliant's opinion is elaborate, following closely the line of decisions in California, the Miseouri amendment being almost a literal copy of the California amendment. Judge Valliant said on this point:

"We come now to consider the most serious objection alleged against the validity of the amendment—that is, that it is in violation of the Fourteenth Amendment of the constitution of the United States, but the cases there were decided on another point, and the point now being considered was not passed upon. But at the argument Chief Justice Waite and: The Court does not wish to hear arguments on the question whether the provision in the Fourteenth Amendment of the Constitution of the Surfect Justice be regarded as only objections, the Miseouri amendment of the Court per Mr. Justice Brewer said: "It is well settled that corporations are persons within the provisions of the Fourteenth Amendment of the Court per Mr. Justice Brewer said: "It is well settled that corporations are persons within the provisions of the Fourteenth Amendment of the Court per Mr. Justice Brewer said: "It is well settled that corporations are persons effect. If the question of the validity of this clause in the California Constitution in the light of the Fourteenth Amendment has ever received any further consideration in the California or Federal courts, our atten-

the California or Federal courts, our attention has not been drawn to the case.

"In the later case in the Supreme Court of the United States Mr. Justice Field referred to the omission of the Court to decide the question of the Santa Clara County case, and said it would continue to come up until it was decided. San Bernardino Co. va. Ry., 118 U. S. 423. In Guthrie, on the Fourteenth Amendment, published in 1886, the author, referring to the comment of Mr. Justice Field in the case last cited, at page 121, says: That was in May, 1886, but the point has not been aquarely decided to this day.'

California's Experiences.

aguarely decided to this day."

California's Experiences.

"But the constitutional provision in question has been the law of California ever since its adoption in 1879. Why the war against it, which was so fierce in the beginning, has apparently ceased, and its operation suffered to go on without question, we do not know. Mr. Judson, in his recent book on 'Taxation in Missouri,' which was published while the adoption of this amendment was pending in this State, at page 287-8, says: 'As we are now asked to adopt a system which has been in force in California for over twenty years, it is important to study the experience of California with reference to this very matter. This subject has been carefully investigated by Professor Carl C. Plehm, professor of history and political science in the University of California in a recent article. As a result of an exhaustive investigation, he finds that the provision against the shifting of the tax back to the mortgagor has ing of the tax back to the mortgagor has proved wholly ineffective. So successful have been the devices to shift the burden

proved wholly ineffective. So successful have been the devices to shift the burden of the tax upon the mortgagor that they have come into practically universal use, and printed blanks are used embodying agreements, which have been sustained by the Supreme Court of the State.

"Professor Plehm says: 'Possibly the oldest and certainly the most widely used of the successful devices invented for this purpose is that of a contract separate and distinct from the mortgage, in which the creditor agrees to reduce the interest in case the debior pays the taxes. The method is so common in the South that all stationers carry regular blank forms of these contracts." And he adds:

"The feeling that the provision of the Constitution which requires the mortgages to pay the taxes accomplishes no good and really increases the burden of debt, and that its evasion affords the debtor a senulue relief, while working no injustice to the creditors, probably accounts for this far-reaching cosinion rendered in the recent case of the London and San Francisco Hank vs. Bandman. 1M Cal. 21 (decided March 31, 183). In this case is was held that a valid agreement, not simultaneous with or directly a part of the mortgage providing for the payment of texes be mortgage providing for the payment of texes be

were exempted, while all others were in-cluded, is not entirely clear. Evidently it was so written in our amendment because we copied it from the California law. But it is not always easy to adjust a borrowed ordinance to another system of laws. Our Constitution ordains that taxes 'shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax.' (Article 16, section 3.) But whilst that was in the former Constitution of California, it was stricken out of the one adopted in 1879. In a recent case in that State, the Supreme Court giving the reasons for the discrimination in the matter we are now discussing, said: 'At the time the Constitution was framed and adopted it was supposed that the property adopted it was supposed that the property of such corporations was commonly mortgaged to an amount equal to or greater than its value; the difficulty or impossibility of reaching their mortgage bonds when held, as is frequently the case, in the hands of numerous owners dispersed over the world, may have made it seem politic and convenient to 65 them as a juncted in the convenient to fit them as an interest in the property; by taxing the property without deduction (on account of the debt), allowed to natural persons the State could lose no revenue, nor could railroad property in anywise escape taxation, both of which con-tingencies were doubtless designed to be avoided; the plan was not open to the im-putation of an attempt at double taxation. Germania Trust Company vs. San Fran-cisco, 128, Cal., 588. Ferhaps also the fact that the United States Government, whose holdings could not be taxed, was a greditor to a large extent of the great railread corporations of that State had consider-able influence in shaping that clause in the able influence in shaping that clause in the Constitutional Convention. In a dissenting opinion by Van Dyke, J., on the case last above cited it is said: 'One of the controlling purposes of the people of this State, in calling that convention and by the adoption of the Constitution framed by such convention, was to compel the creditor class to bear a fair share of the burdens of taxation.

* No class between that may

debate, stricken out."

"These decisions show that when the clause was inserted in the California Constitution it was the deliberate purpose to discriminate between the holders of mortgage securities executed by ratiroad and other quasi public corporations, they expressly out out of their Consti those holding such securities executed by 'railroad and other quasi public corporations,' they expressly cut out of their Constitution the rule of equality and uniformity, and, as their Supreme Court said, when the question first came up for adjudication the fact that the law did discriminate, requiring one class to pay more taxes 'tnan is required to be paid upon like property by others,' did not affect the validity of the law because in its power of taxation the State was supreme, and that the Fourteenth Amendment was no restriction in that case, because its protection was designed only for natural persons. C. P. R. R. vs. Board of Equalization, supra.

protection was designed only for natural persons. C. P. R. R. vs. Board of Equalization, supra.

"The letter and spirit of our Constitution, however, declare for uniformity and equality in taxation of the same kind of property under like circumstances, and this amendment is out of harmony with the general tone of our organic law. Of course it is no legal objection to the validity of an amendment to say that it is contrary to the pre-existing constitution, for the very purpose of an amendment is to make some change in the original. But as we have copied this amendment from the Constitution of another State, and the question is does it create an arbitrary discrimination, it is proper in determining its intent and purpose, to contrast the general spirit of the two constitutions and interpret this in the light of that Constitution from which it was borrowed, rather than in that of our own. Taking it, then, as meaning what the California courts say it means, and as what they say the debates in the Constitutional Conventions show its framers avowed they intended it to mean, it creates the very invidious and arbitrary discrimination that appellants say it does. In none of the California decisions to which our attention has been called is any distinction drawn between mortgages given by a railroad company on its roadbed and those

cept as to railroad and other quast public corporations, in case of debts so secured the value of the property affected. etc.

"In our law it is: 'A mortgage, deed of trust, contract or other obligation by which a debt is secured, shall, for the purposes of assessment and taxation, be deemed and treated as an interest in the property affected thereby, except as to railroad and a debt is secured, shall, for the purposes of assessment and taxation, be deemed and treated as an interest in the property affected thereby, except as to railroad and other quasi public corporations for which provision has already been made by law; the property affected, secured the value of the provision has already been made by law; the property affected, secured the value of the behalf of respondents that the contended in behalf of respondents that the contended in the property affected, secured the value of the property affected, which provision has already been made by law; obviates the objection and sufficiently been made by law; obviates the objection and sufficiently by lattifies the discrimination. Those words, it is contended, refer 'to the special provision made in our Statutes for the taxation of the performance of the functions and dutles as a common carrier. Brief of Attorney General, p. 36. But that would be an arbitrary construction. There is nothing in the context limiting the application of the context limiting

pelled to carry, and as the law does not lay it on those who stand in relation to the railroad property as these appellants stand in relation to the property embraced in their mortunges, that interest goes untaxed, their mortinges, that interest goes untaxed, and the result is that the mortgage securities held by the appellants are made to bear a part of the burden of the State government, while the rame kind of securities held by their neighbors are unburdened. And it puts mortgage securities issued by quasi public corporations in a position of advantage over such se aritles made by in-dividuals, and thus, with no better security so fer as the value of the property pledged is concerned than that covered by the mortgages made by the natural person or the private corporation, the money lender can afford to lend his money to a quasi public corporation at a less rate of interest than to others. In this view the railroad corporation may receive compensation for the discrimination against it, and the invidious discrimination results in practice only be-tween the smaller capitalist, who lends money to the individual, and the larger one who deals with railroad and other quasi public corporations. It is not denied that the State may classify property for taxation. And nothing said herein is to be understood as drawing in question or casting any doubt as to the validity of section 5 article 10 of our Constitution relating to the taxation of radical corporations, but we do mean to say the classification must rest on some reasay the classification must rest on some rea-son other than mere ownership and that dif-ferent pieces of property of the same kind hold and used for the same or similar pur-pesses within the same jurisdiction cannot lawfully be so classified as that one is sub-jected to the tax and the other exempt merely because one belongs to a natural person and the other to a corporation, or that one is the obligation of a corporation and the other that of a natural person, or and the other that of a natural person, or one that of a large concern, and the other that of a small one. "In Santa Clara Co. vs. S. Pac. Ry., sup-

convention, was to compel the creditor class to bear a fair share of the burdens of taxation. * * No plan, however, that may be devised will in practice, operate entirely equal and uniform. This fact was realized by members of the convention, as the debates will show. Hence the clause of the Constitution of 18th declaring that "axation shall be uniform throughout the State" was omitted from the present Constitution; and section 1 of the article on revenue and taxation as first resorted by the committee, declaring that "all taxes shall be uniform upon the same class of subjects" was, after debate, stricken out."

"These decisions show that when the "These decisions show that when the clause was inserted in the California Constiperson, would also sustain it where both owners are natural persons. A mere change in the State Constitution would effect this if the State Constitution would enert this if the Federal Constitution does not pro-hibit it. Any difference between the own-ers, whether of age, color, race or sex, which the State might designate, would be which the State might designate, would be a sufficient reason for the discrimination.' And again referring to the protection afforded by the Fourteenth Amendment the Court said: 'It implies not only that the means which the laws afford for such security shall be equally accessible to him, but that no one shall be subject to any but that no one shall be subject to any greater burdens or charges than such as are imposed upon all others under like circumstances. * * Unequal taxation so far as it can be prevented is, therefore, with other unequal burdens, prohbited by the amendment. * * * Absolute equality may not be attainable, but gross and designed departures from it will necessarily bring the legislation authorizing it within the prohi-

"The opinion of Mr. Justice Field in that case is very elaborate. It seems to furnish a conclusive answer to every proposition advanced by respondents in defense of this law, and we are satisfied with the soundness

"In N. Pacif. R. Co., vs. Walker, 47 Fed. R. 631, the converse of the proposition was R. 631, the converse of the proposition was before the Court, and was shown to be equally true. The railroad company owned large quantities of land in N. Dakots; an act of the Legislature of Dakota Tegritory had provided that in lieu of all other taxes on railroad property a certain tax on its gross earnings should be levied and upon payment thereof its property otherwise to exempt. The railroad company sued to enjoin the county officials from collecting taxes assessed against its lands. The cause came before Caldwell and Thomas, JJ., in the United States Circuit Court for that district. The Court in its opinion by Caldour attention has been called is any distinction drawn between mortgages given by a railroad company on its roadbed and those covering lands held for sale. They are all treated alike. As we borrowed the text of the law from that State, we are presumed to take its interpretation there given.

Slight Difference between the words employed in our amendment and those in the California law, and there is a slight difference in the pureturation. The property for taxation, may place railroads in a class by themselves, and tax them and their property different from other persons; the only limitation being that all railroads

teenth Amendment of the Constitution of the United States, and therefore void. "The judgments are reversed and these causes are remanded to the Buchanan Cir-

As to paragraph I. Brace, Marshall and Gantt, JJ. concur; Burgess, C. J., and Sherwood and Robinson, JJ., dissent. As to paragraph 2. Burgess, C. J., and Robinson, Brace, Marshall and Gantt, JJ., concur; Sherwood, J., expresse so opinion. As to paragraph 3. Robinson, Brace and Gantt, JJ., concur; Burgess, C. J., and Sherwood and Marshall, JJ., dissent.